IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 33250 of 2007(E)

LAR.439/2006 of IIIrd Addl. SUB COURT,ERNAKULAM

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PETITIONERS:

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1. V.J.George, aged 53 years, S/o. late Joseph, Valluvasseri House, Kadavanthara P.O., Elankulam Village, Kochi-20.

2. V.J.Antony, aged 46 years, S/o. late Joseph, do.

3. V.J.Stantly, aged 43 years, S/o. late Joseph, do.

4. V.J.Jacob, aged 51 years, S/o. late Joseph, residing in Valluvasseri House, Kadavanthara, PO., Elankulam Village, Kochi-20.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

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1. State of Kerala, represented by Secretary,Department of Revenue, Kerala Government Secretariat,Thiruvananthapuram

2. The District Collector, Ernakulam.

3. Land Acquisition Officer, Special Tahsildar (LA), Corporation of Kochi, Vyttila, Kochi-19.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33250 of 2007

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Dated this the 12th day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the subordinate Judge, Ernakulam in refusing to appoint a Commission and not inclining to grant the prayer in Ext.P5. The writ petitioner herein is a person whose property having an extent of 0.0116 hectares had been acquired for the purpose of widening the S.A. Road, Ernakulam. The Land Acquisition Officer awarded a compensation of Rs.11,23,731/-. Dissatisfied with the same, a reference is made and belatedly an application for issuance of a Commission has been filed, which has been rejected. The Commission application wants five points to be ascertained. The court below dismissed the application on account of the delay in filing the application.

2. Whatever it may be in a case for compensation, the particulars which are sought to be gathered by the inspection of a

Commissioner appears to be really necessary, which will be helpful to the court for determining fair compensation. But point No.2 to ascertain the market value of the land in the locality need not be left to the Commissioner and it cam be proved by the party.

3. Therefore, I am inclined to allow the Commission application to note down point Nos. 1, 3, 4 and 5 in Ext.P3 application. The court below is directed to appoint a Commissioner at the expenses of the claimants to note down the particulars mentioned above. So far as the production of the document is concerned, the court may consider the prayer of the writ petitioner sympathetically and pass appropriate orders.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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